

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed May 13, 2008. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 112, Second Paragraph**

Claims 1-6 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In response to the rejections, Applicant has amended claim 1 to recite "a" configuration instead of "the" configuration to provide antecedent basis for the term "configuration". In view of that amendment, it is respectfully submitted that the claims define the invention in the manner required by 35 U.S.C. § 112. Accordingly, Applicant respectfully requests that the rejections to these claims be withdrawn.

### **II. Claim Rejections - 35 U.S.C. § 101**

Claims 7-16 have been rejected under 35 U.S.C. § 101 as being drawn to non-statutory subject matter.

In response to the rejections, Applicant has canceled claims 7-11 and amended claims 12-16 so as to be directed to a "computer readable storage medium". In view of those cancellations and amendments, Applicant respectfully submits that rejections should be withdrawn.

### **III. Claim Rejections - 35 U.S.C. § 103(a)**

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden 35 U.S.C. § 103 to establish obviousness by showing objective teachings in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The key to supporting an allegation of obviousness under 35 U.S.C. § 103 is the clear articulation of the reasons why the Examiner believes that claimed invention would have been obvious. See MPEP § 2141. As stated by the Supreme Court, “[r]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR v. Teleflex*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

Applicant respectfully submits that the Examiner has not established that Applicant’s claims are obvious in view of the prior art. Applicant discusses those claims in the following.

#### **A. Rejection of Claims 1-4 and 6-16**

Claims 1-4 and 6-16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Pugaczewski, et al.* (“Pugaczewski,” U.S. Pat. No. 6,903,755) in view of *Hsieh, et al.* (“Hsieh,” U.S. Pub. No. 2002/0158900). Applicant respectfully traverses.

Independent claim 1 provides as follows:

1. A method for providing a client on a remote client network access to a service provider resource on a local service provider network, the method comprising the following actions:

(a) providing a graphical user interface (GUI) that enables an operator of the service provider to construct virtual local area networks (VLANs) between clients on remote client networks and service provider computers on the service provider network using a process that is the same regardless of the configurations of the remote client networks;

(b) receiving commands of the service provider operator with the GUI that convey the identity of a particular client and a particular service provider computer to be accessed by the client;

(c) automatically determining the configuration of the client's network;

(d) automatically establishing a VLAN between the client's network and the service provider computer to enable the client to remotely utilize the computing capabilities of the service provider computer; and

(e) repeating actions (b) through (d) for multiple different clients having different network configurations, the process used by the service provider operator to construct the VLAN using the GUI being the same regardless of the different network configurations.

In the Office Action it is alleged that Pugaczewski discloses each limitation of claim 1, except for connecting a customer and service provider with a VLAN. Applicant respectfully disagrees. In particular, Applicant submits that Pugaczewski fails to disclose or suggest other limitations of claim 1, which Hsieh also fails to disclose or suggest.

On pages 4 and 5 of the Office Action, it is argued that Pugaczewski discloses providing a graphical user interface (GUI) that enables an operator of the service

provider to construct a connection between clients on remote client networks and service provider computers on a service provider network “using a process that is the same regardless of the configurations of the remote client networks”. On pages 5 and 6, it is further argued that Pugaczewski discloses constructing connections between “multiple different clients having different network configurations, the process used by the service provider operator to construct the VLAN using the GUI being the same regardless of the different network configurations”. In support of those arguments, the Examiner cites the Abstract of the Pugaczewski reference, which provides:

A network management system and graphical user interface for configuring a network connection between first and second service access points utilizes a configuration manager and information manager to provide a generic set of models so that different manufacturer's nodal processors and other network hardware can be inserted into the network with minimal changes to the software which controls the device. The system comprises an information manager including routing information for the network. The configuration manager operates to establish a connection across each subnet on the route by sending requests to element managers to program the subnet elements.

*Pugaczewski, Abstract.* As can be appreciated from the above excerpt, Pugaczewski discloses “a generic set of models so that different manufacturer's nodal processors and other network hardware can be inserted into the network with minimal changes to the software which controls the device”. Clearly, the mere identification of “a generic set of models” is *not* a disclosure of using a GUI to construct VLANs (or other connections) between “multiple different clients having different network configurations, *the process*

*used by the service provider operator to construct the VLAN using the GUI being the same regardless of the different network configurations*" (emphasis added). Applicant notes that the Examiner provides no explanation as to how Pugaczewski's mention of "a generic set of models" equates to or is suggestive of the process used by an operator to be the same regardless of network configuration. Accordingly, the Examiner has not provided any "articulated reasoning" to support the Examiner's conclusion of obviousness. Instead, the Examiner has simply block-copied Applicant's claim limitation and identified text contained within the Pugaczewski reference. Applicant therefore asserts that the Examiner has failed to state a *prima facie* case of obviousness.

As a further matter, the Examiner's failure to explain how Pugaczewski discloses or suggests Applicant's limitations has denied Applicant an opportunity to understand the reasons why Applicant's claims have been rejected and, therefore, has likewise denied Applicant an opportunity to properly respond to the rejections. As stated in MPEP 706.07, "[t]he Examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." In this case, no "clear issue" has been developed by the Examiner.

## **B. Rejection of Claim 5**

Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Pugaczewski* and *Hsieh* as applied to claim 4, and further in view of *McNally, et al.* ("McNally," U.S. Pat. No. 6,259,448). Applicant respectfully traverses the rejection.

As identified above, Pugaczewski and Hsieh do not teach aspects of Applicant's claims. In that McNally does not remedy the deficiencies of the Pugaczewski and Hsieh references, Applicant respectfully submits that claim 5 is allowable over the Pugaczewski/Hsieh/McNally combination for at least the same reasons that claim 1 is allowable over Pugaczewski/Hsieh.

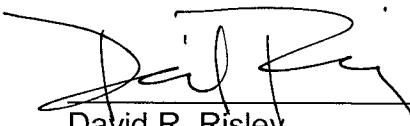
#### **IV. Canceled Claims**

Claims 7-11 and 17-19 have been canceled from the application without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

## CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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